

Volume: 1  
Pages: 157  
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COMMONWEALTH OF MASSACHUSETTS

04-10644-MEI

DEPOSITION of George T. Snowdon, a witness called on behalf of the plaintiff, taken pursuant to the Massachusetts Rules of Civil Procedure, before Shawna Delia Hoban, a Professional Court Reporter and Notary Public in and for the Commonwealth of Massachusetts, at the offices of Harry C. Beach, on Thursday, December 16, 2004, commencing at 10:02 a.m.

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A P P E A R A N C E S

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George T. Snowdon, SWORN

DIRECT EXAMINATION BY MR. BEACH:

MR. BEACH: Could you state your name for the record, please?

MR. SNOWDON: George Snowdon.

MR. BEACH: And your date of birth?

MR. SNOWDON: September 19, 1953.

MR. BEACH: And the town of your residence right now?

MR. SNOWDON: I live in Watertown, Massachusetts.

MR. BEACH: Do you have any plans to move out of state in the next eighteen months or so?

MR. SNOWDON: No.

MR. BEACH: Mr. Snowdon, your counsel may have already pointed this out to you or you may know it from your own experience, but today is an opportunity that the Federal Civil Procedures give me to ask you certain questions under oath as they relate to the allegations and offenses set out in the lawsuit before us; that is, Linda Mellen versus Trustees of BU and Frances Drolette.

As you know, that action is pending in Federal Court and today is the opportunity the rules allow me

1 Q. Do you have any way to ball park for me today --  
2 understanding that ball parks can be large, ball park  
3 for me today the number of terminations you've been  
4 involved with since 1996?

5 A. I cannot even venture a guess, sir.

6 Q. Do you have any sense whether it's more or less than  
7 ten?

8 A. It would be more than ten.

9 Q. And, again, I understand what you said but let me  
10 press you just a little. Do you have any sense  
11 whether it's more or less than fifty?

12 A. Probably more than fifty.

13 Q. I'll leave it at that for now, understanding your  
14 testimony. How many employees, BU employees, have you  
15 been involved with in connection with their  
16 termination who had more than ten years experience,  
17 who had no job deficiency or attendance issues in  
18 their personnel files, who were terminated for missing  
19 one day of work?

20 MS. TALLEY: Objection.

21 A. I can't recall any such instances off hand.

22 Q. BU has a policy, Mr. Snowdon, doesn't it which applies  
23 a three work-day grace period for unexcused absences?

24 MS. TALLEY: Objection.

1 have resigned voluntarily from the University.

2 Q. And is it your view, Mr. Snowdon, that Section 312.7  
3 supersedes or nullifies 202.1?

4 MS. TALLEY: Objection.

5 A. As it relates to a person who is out on the Family  
6 Medical Leave Act, yes.

7 Q. Is there anything in the Personnel Manual here, sir,  
8 which states or allows the reading that 312.7 trumps  
9 202.1?

10 MS. TALLEY: Objection. You can answer.

11 A. I am not aware of any specific provision that  
12 addresses that.

13 MR. BEACH: Can we go off the record a second?

14 Q. Currently, sir, how many employees are at the Medical  
15 Campus?

16 A. Approximately thirty-five hundred.

17 Q. And in that count do you include faculty?

18 A. Yes, I do.

19 Q. And was that roughly the same situation in 2003; that  
20 is, somewhere around thirty-five hundred?

21 A. Yes.

22 Q. And employees on the Medical Campus, they accrue  
23 vacation leave as they continue to serve as employees;  
24 is that correct?

1 A. Yes, they do. Yes.

2 Q. And they accrue sick leave; is that correct?

3 A. Yes.

4 Q. And these employees, they routinely take vacation  
5 leave and sick leave and personal leave over the  
6 course of the year; don't they?

7 A. Yes.

8 Q. BU also recognizes other kinds of authorized absences;  
9 doesn't it? Other than vacation, sick and personal?

10 A. I'm not sure what you're referring to.

11 Q. BU recognizes that sometimes employees are out on  
12 authorized leave because of an on-the-job injury; is  
13 that correct?

14 A. Yes.

15 Q. And sometimes employees are out of work because of  
16 maternity leave for which they may get paid; is that  
17 correct?

18 A. Yes.

19 Q. And sometimes employees are out on sympathy leave  
20 under the rules of the Personnel Policy Manual; isn't  
21 that correct?

22 A. Yes.

23 Q. Sometimes employees are out on jury duty or military  
24 leave; is that correct?

1 A. Yes.

2 Q. And those are all, assuming the appropriate notice,  
3 authorized leaves of absences; isn't that correct?

4 A. Yes.

5 Q. And these employees, as a general matter on the  
6 Medical Campus, they return after their period of  
7 authorized leave; isn't that correct?

8 A. Yes.

9 Q. On occasion -- is it your experience, though, on  
10 occasion, that employees return to work later than  
11 their supervisors expected?

12 A. Yes.

13 Q. To your knowledge, understanding that you've been at  
14 BU since '92 and Director of Personnel since '96, how  
15 many Medical Campus employees have been terminated  
16 because they did not appear for work on the very first  
17 day they were expected to return from their authorized  
18 leave?

19 MS. TALLEY: Objection. You can answer.

20 A. Although I can't cite the instances off hand, I  
21 believe that there have been occasions of that in the  
22 past.

23 Q. Any way to number, roughly or specifically, the number  
24 of occasions where employees have been terminated

1       because they did not appear for work on the first day  
2       they were expected to return?

3       A.    I believe there would be a handful or less.

4       Q.    And to your knowledge, did these employees have a  
5       previous history of taking unauthorized or unexcused  
6       leave from their employment?

7       A.    I don't recall.

8       Q.    Prior to the letter that Ms. Drolette sent out on  
9       November 20, 2003; that is, Exhibit No. 3, what  
10      investigation did your office conduct as to why Linda  
11      Mellen did not appear for work on November 19?

12            MS. TALLEY: Objection. You can answer.

13       A.    We did not conduct any investigation.

14       Q.    And maybe investigation is an ambiguous word, but did  
15      your office conduct or undertake any kind of inquiry  
16      before this letter went out, Exhibit No. 3, as to why  
17      Linda Mellen did not report to work on November 19?

18       A.    No.

19       Q.    Do you know whether Frances Drolette made any inquiry  
20      before signing and sending Exhibit No. 3 as to why  
21      Linda Mellen was not at work on November 19?

22       A.    I don't know.

23       Q.    Did you ever ask her whether she looked into why Linda  
24      wasn't at work on the nineteenth?

1 employee to take leave under that law?

2 MS. TALLEY: Objection.

3 A. Yes.

4 Q. Is it your understanding as well, Mr. Snowdon, that  
5 the Family and Medical Leave Act requires an employee  
6 to request, with reference to the FMLA, family leave?

7 MS. TALLEY: Objection. You can answer that if  
8 you can.

9 A. I don't know; I can't say.

10 Q. Prior to the separation of Linda Mellen in November  
11 2003, had you ever been involved in a termination of a  
12 BU employee who had an unblemished, long-term tenure  
13 at BU because that employee missed one day of work?

14 MS. TALLEY: Objection.

15 A. I don't recall.

16 MR. BEACH: Let me know if you need to take a  
17 break or stretch, Mr. Snowdon, and I'll just keep  
18 pushing on.

19 Q. If I could, sir, 308.1 of the Personnel Manual. With  
20 reference to 308.1, sir, on page forty-six, am I  
21 correct in reading this that BU has a policy of twelve  
22 authorized paid holidays to a normal work year?

23 A. Yes.

24 Q. And in 2003, BU added for that year the Daniel S.